

The Honorable RONALD B. LEIGHTON

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

DARNELL MCGARY,

Plaintiff,

v.

RONALD CULPEPPER, et al.,

Defendants.

NO. C05-5376 RBL

AGREED ORDER GRANTING  
PLAINTIFF LEAVE TO FILE  
AMENDED COMPLAINT

The Court has received the parties' agreed Motion for entry of an Order granting plaintiff leave to amend his complaint, and considered the record in this matter.

This 42 U.S.C. § 1983 Civil Rights action has been remanded by the Ninth Circuit Court of Appeals to provide plaintiff an opportunity to amend his Complaint to allege facts, if he can do so, sufficient to state a claim as to each of the defendants in this matter, **except** as to Washington Superior Court Judge Ronald Culpepper. This Court previously dismissed plaintiff's claims regarding Judge Culpepper and plaintiff waived that issue on appeal. Memorandum Decision (Dkt. 84, p. 2, fn. 1).

Review of the original Complaint (Dkt. 1) shows plaintiff attempting to assert claims against defendants in their personal and official capacities. However, plaintiff does not allege sufficient facts to demonstrate the specific actions each defendant took or failed to take to state

1 a civil rights claim. By way of further example, plaintiff asserts claims against defendant  
2 McClung regarding a medication override, but does not allege that plaintiff actually received  
3 the medication that Dr. McClung ordered. Plaintiff names as defendants Ms. Acker and  
4 Ms. Roberts, but make no allegations as to them. Plaintiff needs to amend the complaint in this  
5 action to cure the technical defects in his original Complaint.

6 Based on the foregoing, **IT IS ORDERED.**

7 That the parties agreed motion requesting leave for plaintiff to file an amended  
8 complaint is **GRANTED.**

9 That plaintiff is directed to file an amended complaint with a service copy and filled out  
10 marshals service form on or before May 27, 2009.

11 DATED this 19th day of May, 2009.

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13 RONALD B. LEIGHTON  
14 UNITED STATES DISTRICT JUDGE

15 Presented by:

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17 ROBERT M. MCKENNA  
18 Attorney General

19  
20 s/ Donna J. Hamilton  
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25 s/Donna J. Hamilton per e-mail approval by Ms. Migchelbrink  
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14 s/Donna J. Hamilton per telephonic approval by Mr. McGary  
15 DARNELL McGARY  
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